IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE ELEVENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MS JUSTICE G.ROHINI**

**WRIT PETITION NO : 14153 of 2004**

Between:

Smt. Savithramma, W/o. Yerriswamy,
R/o. Gandlapadu Village, Putlur Mandal, Anantapur District.

**..... PETITIONER**

AND

1 The Joint Collector, Anantapur, Anantapur District.
2 The Revenue Divisional Officer, Anantapur, Anantapur District.
3 The Mandal Revenue Officer, Putlur, Anantapur District.

**.....RESPONDENT(S)**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records and issue a Writ, Order or direction more particularly one in the nature of Writ of Certiorari against the order of the 1st respondent dated 04-8-2004 in proceeding L.Dis.No.K4/ATP/881/2004 as being arbitrary, illegal and vitiated by non-application of the mind and a further declaration against the order of the 2nd respondent suspending the authorization of the petition dated 30-7-2004 in proceeding R.C.No.D1/CS/973/2004 as being arbitrary, illegal, unconstitutional and violative of the principles of natural justice

**Counsel for the Petitioner : M/S C.KODANDA RAM**

**Counsel for the Respondents: GP FOR CIVIL SUPPLIES**

**The Court, at the admission stage, made the following :**

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**HONOURABLE MS. JUSTICE G.ROHINI**

**W.P.No.14153 of 2004**

**ORAL ORDER**:

Heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

The petitioner is a fair price shop dealer of Gandlapadu village, Putlur Mandal, Ananthapur District. Her authorization was suspended by the Revenue Divisional Officer by proceedings, dated 30.7.2004 pending enquiry into certain alleged irregularities. It is to be noted that before passing that order, the Revenue Divisional Officer issued show cause notice, dated 19.7.2004 and having considered the explanation submitted by the petitioner, passed an order dated 30.7.2004 recording a finding that the petitioner has committed irregularities in distribution of essential commodities and besides she is a benami dealer, which deserves rigorous punishment and accordingly, suspended the petitioner's authorization pending enquiry.

Against the said order, the petitioner preferred an appeal before the Joint Collector, Anantapur along with an application for stay. The Joint Collector passed an order on 04.8.2004 as under :

*"Since the case has already been under consideration in the Court of Revenue Divisional Officer, Anantapur, the Revenue Divisional Officer is directed to dispose of the case on merits urgently."*

The said order is under challenge in this writ petition.

The learned counsel for the petitioner contends that the order of the 1st respondent-Joint Collector in disposing of the Appeal without deciding the correctness of the findings recorded by the Revenue Divisional Officer is unsustainable and is liable to be set aside.

A perusal of the order, dated 30.7.2004 of the Revenue Divisional Officer shows that having considered the explanations submitted by the petitioner, he has recorded a clear finding that the petitioner is guilty of the alleged irregularities. When the said order is under challenge in a statutory appeal, the 1st respondent, who is the appellate authority, ought to have considered the correctness of the findings and passed appropriate orders. However, the 1st respondent, without referring to any one of the contentions raised by the petitioner and without notice to the Appellant, merely disposed of the appeal with a direction to the Revenue Divisional Officer to dispose of the case on merits as expeditiously as possible. Such an order passed by the authority while considering the statutory appeal, which is not only cryptic but also in violation of the principles of natural justice cannot be sustained. Accordingly, the impugned order dated 04-08-2004 is set aside and the matter is remanded to the 1st respondent with a direction to consider the appeal afresh and to pass appropriate orders in accordance with law as expeditious as possible preferably within a period of four weeks from the date of receipt of this order. Having regard to the facts and circumstances of the case, I am also of the view that it would be appropriate to permit the petitioner to distribute the commodities till the disposal of the Statutory Appeal. Accordingly, there shall be a direction that the order of suspension, dated 30.7.2004 passed by the Revenue Divisional Officer shall not be given effect to till the disposal of the Appeal.

The Writ Petition is accordingly disposed of. No costs.

11-08-2004

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To

1 The Joint Collector, Anantapur, Anantapur District.
2 The Revenue Divisional Officer, Anantapur, Anantapur District.
3 The Mandal Revenue Officer, Putlur, Anantapur District.

4 Two C.Cs. to the Government Pleader for Civil Supplies, High Court Building, Hyderabad (OUT)

5 Two C.D. copies